

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 653

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO PUBLIC REGULATION; TRANSFERRING THE REGULATION OF
AMBULANCE SERVICES FROM THE PUBLIC REGULATION COMMISSION TO THE
DEPARTMENT OF HEALTH; AMENDING AND ENACTING SECTIONS OF THE
NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 5-1-1 NMSA 1978 (being Laws 1967,
Chapter 167, Section 1, as amended) is amended to read:

"5-1-1. POLITICAL SUBDIVISIONS--AMBULANCE SERVICE. --

A. A municipality or county may:

[A.] (1) provide ambulance service to
transport sick or injured persons to a place of treatment in
the absence of an established ambulance service only as
authorized by the [~~state corporation commission~~] department of

1 health;

2 [B-] (2) contract with other political
3 subdivisions or with private ambulance services for the
4 operation of its ambulance service;

5 [C-] (3) lease ambulances and other equipment
6 necessary to the operation of its ambulance service;

7 [D-] (4) in the course of its operation of an
8 ambulance service, proceed to the scene of a disaster beyond
9 its subdivision boundaries when requested, providing no local
10 established ambulance service is available or, if one exists,
11 such local ambulance service deems ~~their~~ its capacity
12 inadequate or insufficient for emergency transportation of the
13 disaster victims; and

14 [E-] (5) transport sick or injured persons
15 from the subdivision boundaries to any place of treatment.

16 [~~and~~

17 F-] B. No personal action shall be maintained in
18 [~~any~~] a court of this state against [~~any~~] a member or officer
19 of a political subdivision for [~~any~~] a tort or act done, or
20 attempted to be done, when done by the authority of the
21 political subdivision or in execution of its orders under this
22 section. In all such cases, political subdivisions shall be
23 responsible. [~~Any~~] A member or officer of the political
24 subdivision may plead the provisions of this section in bar of
25 such action whether it is now pending or hereafter commenced. "

1 Section 2. Section 24-10B-3 NMSA 1978 (being Laws 1993,
2 Chapter 161, Section 2) is amended to read:

3 "24-10B-3. DEFINITIONS. -- As used in the Emergency Medical
4 Services Act:

5 A. "academy" means a separately funded emergency
6 medical services training program administered through the
7 department of emergency medicine of the university of New
8 Mexico school of medicine;

9 B. "advance directive" means a written instruction,
10 such as a living will or durable power of attorney for health
11 care, recognizable under state law and relating to the
12 provision of health care when an individual is incapacitated;

13 C. "advanced life support" means advanced pre-
14 hospital and interfacility care and treatment, including basic
15 and intermediate life support, as prescribed by regulation,
16 which may be performed only by an individual licensed as a
17 paramedic by the bureau and operating under medical direction;

18 D. "air ambulance service" means ~~[any]~~ a
19 governmental or private service that provides air
20 transportation specifically designed to accommodate the medical
21 needs of a person who is ill, injured or otherwise mentally or
22 physically incapacitated and who requires in-flight medical
23 supervision;

24 E. "approved emergency medical services training
25 program" means an emergency medical services training program

underscored material = new
[bracketed material] = delete

1 that is sponsored by a post-secondary educational institution,
2 is accredited by the joint review committee on educational
3 programs or active in the accreditation process, as verified by
4 the chair of the joint review committee on educational
5 programs, or is approved by the joint organization on education
6 and participates in the joint organization on education;

7 F. "basic life support" means pre-hospital and
8 interfacility care and treatment, as prescribed by regulation,
9 [~~which~~] that can be performed by all licensed emergency medical
10 technicians;

11 G. "bureau" means the primary care and emergency
12 medical services bureau of the public health division of the
13 department [~~of health~~];

14 H. "certified emergency medical services first
15 responder" means a person who is certified by the bureau and
16 who functions within the emergency medical services system to
17 provide initial emergency aid, but not basic, intermediate or
18 advanced life support, to a person in need of medical
19 assistance;

20 I. "critical incident stress debriefing program"
21 means a program of preventive education and crisis intervention
22 intended to reduce the negative effects of critical stress on
23 emergency responders;

24 J. "curricula" means programs of study, the minimum
25 content of which has been developed by the joint organization

1 on education, for the initial and mandatory refresher training
2 of emergency medical technicians and certified emergency
3 medical services first responders;

4 K. "department" means the department of health;

5 L. "emergency medical dispatcher" means a person
6 who is trained and certified pursuant to Subsection [F] G of
7 Section 24-10B-4 NMSA 1978 to receive calls for emergency
8 medical assistance, provide pre-arrival medical instructions,
9 dispatch emergency medical assistance and coordinate its
10 response;

11 M "emergency medical services" means the services
12 rendered by emergency medical technicians, certified emergency
13 medical services first responders or emergency medical
14 dispatchers in response to an individual's need for immediate
15 medical care to prevent loss of life or aggravation of physical
16 or psychological illness or injury;

17 N. "emergency medical services system" means a
18 coordinated system of health care delivery that includes
19 community education and prevention programs, centralized access
20 and emergency medical dispatch, trained first responders,
21 medical-rescue services, ambulance services, hospital emergency
22 departments and specialty care hospitals that respond to the
23 needs of the acutely sick and injured;

24 O. "emergency medical technician" means a health
25 care provider who has been licensed to practice by the bureau;

underscoring material = new
[bracketed material] = delete

1 P. "intermediate life support" means certain
2 advanced pre-hospital and interfacility care and treatment,
3 including basic life support, as prescribed by regulation,
4 [~~which~~] that may be performed only by an individual licensed by
5 the bureau and operating under medical direction;

6 Q. "joint review committee" means the joint review
7 committee on educational programs for the emergency medical
8 technician-paramedic, a nonprofit organization incorporated in
9 the state of Massachusetts;

10 R. "medical control" means supervision provided by
11 or under the direction of physicians to providers by written
12 protocol or direct communications;

13 S. "medical direction" means guidance or
14 supervision provided by a physician to a provider or emergency
15 medical services system and [~~which~~] that includes authority
16 over and responsibility for emergency medical dispatch, direct
17 patient care and transport of patients, arrangements for
18 medical control and all other aspects of patient care delivered
19 by a provider;

20 T. "medical-rescue service" means a provider that
21 is part of the emergency medical services system, but not
22 subject to the authority of the [~~state corporation commission~~]
23 department under the Ambulance Standards Act, and [~~which~~] that
24 may be dispatched to the scene of an emergency to provide
25 rescue or medical care;

1 U. "physician" means a doctor of medicine or doctor
2 of osteopathy who is licensed or otherwise authorized to
3 practice medicine or osteopathic medicine in New Mexico;

4 V. "protocol" means a predetermined, written
5 medical care plan and includes standing orders;

6 W. "provider" means a person or entity delivering
7 emergency medical services;

8 X. "regional office" means a regional emergency
9 medical services planning and development agency formally
10 recognized and supported by the bureau;

11 Y. "secretary" means the secretary of health;

12 Z. "special skills" means a set of procedures or
13 therapies that are beyond the usual scope of practice of a
14 given level of life support and that have been approved by the
15 medical direction committee for use by a specified provider;
16 and

17 AA. "state emergency medical services medical
18 director" means a physician employed by the bureau to provide
19 overall medical direction to the statewide emergency medical
20 services program, whose duties include serving as a liaison to
21 the medical community and chairing the medical direction
22 committee. "

23 Section 3. Section 24-10B-4 NMSA 1978 (being Laws 1983,
24 Chapter 190, Section 4, as amended) is amended to read:

25 "24-10B-4. BUREAU--DUTIES.--The bureau is designated as

. 146044. 1

1 the lead agency for the emergency medical services system and
2 shall establish and maintain a program for regional planning
3 and development, improvement, expansion and direction of
4 emergency medical services throughout the state, including:

5 A. design, development, implementation and
6 coordination of communications systems to join the personnel,
7 facilities and equipment of a given region or system that will
8 allow for medical control of pre-hospital or interfacility
9 care;

10 ~~[B. provision of technical assistance to the public~~
11 ~~regulation commission for further development and~~
12 ~~implementation of standards for certification of ambulance~~
13 ~~services, vehicles and equipment;~~

14 ~~C.]~~ B. development of requirements for the
15 collection of data and statistics to evaluate the availability,
16 operation and quality of providers in the state;

17 ~~[D.]~~ C. adoption of ~~[regulations]~~ rules for medical
18 direction of a provider or emergency medical services system
19 upon the recommendation of the medical direction committee,
20 including:

21 (1) development of model guidelines for
22 medical direction of all components of an emergency medical
23 services system;

24 (2) a process for notifying the bureau of the
25 withdrawal of medical control by a physician from a provider;

1 and

2 (3) specific requirements for medical
3 direction of intermediate and advanced life support personnel
4 and basic life support personnel with special skills approval;

5 [~~E.~~] D. maintenance of a list of approved emergency
6 medical services training programs, the graduates of which
7 shall be the only New Mexico emergency medical services
8 students eligible to apply for emergency medical technician
9 licensure or certified emergency medical services first
10 responder certification;

11 [~~F.~~] E. approval of continuing education programs
12 for emergency medical services personnel;

13 [~~G.~~] F. adoption of [~~regulations~~] rules pertaining
14 to the training and certification of emergency medical
15 dispatchers and their instructors;

16 [~~H.~~] G. adoption of [~~regulations~~] rules based upon
17 the recommendations of the trauma advisory committee, for
18 implementation and monitoring of a statewide, comprehensive
19 trauma care system, including:

20 (1) minimum standards for designation or
21 retention of designation as a trauma center or a participating
22 trauma facility;

23 (2) pre-hospital care management guidelines
24 for the triage and transportation of traumatized persons;

25 (3) establishment for interfacility transfer

underscored material = new
[bracketed material] = delete

1 criteria and transfer agreements;

2 (4) standards for collection of data relating
3 to trauma system operation, patient outcome and trauma
4 prevention; and

5 (5) creation of a state trauma care plan;
6 [~~I.~~] H. adoption of [~~regulations~~] rules, based upon
7 the recommendations of the air transport advisory committee,
8 for the certification of air ambulance services;

9 [~~J.~~] I. adoption of [~~regulations~~] rules pertaining
10 to authorization of providers to honor advance directives to
11 withhold or terminate care in certain pre-hospital or
12 interfacility circumstances, as guided by local medical
13 protocols;

14 [~~K.~~] J. development of guidelines, with
15 consultation from the state fire marshal, pertaining to the
16 operation of medical-rescue services within the emergency
17 medical services system;

18 [~~L.~~] K. operation of a critical incident stress
19 debriefing program for emergency responders utilizing
20 specifically trained volunteers who shall be considered public
21 employees for the purposes of the Tort Claims Act when called
22 upon to perform a debriefing; and

23 [~~M.~~] L. adoption of rules to establish a cardiac
24 arrest targeted response program pursuant to the Cardiac Arrest
25 Response Act, including registration of automated external

1 defibrillator programs, maintenance of equipment, data
2 collection, approval of automated external defibrillator
3 training programs and a schedule of automated external
4 defibrillator program registration fees. "

5 Section 4. Section 24-10B-5 NMSA 1978 (being Laws 1983,
6 Chapter 190, Section 5, as amended) is amended to read:

7 "24-10B-5. PERSONNEL LICENSURE REQUIRED. --

8 A. The department shall by regulation adopt and
9 enforce licensure and certification requirements, including
10 minimum standards for training, continuing education and
11 disciplinary actions consistent with the Uniform Licensing Act,
12 for all persons who provide emergency medical services within
13 the state, irrespective of whether the services are
14 remunerated. Such regulation shall include authorization for
15 the bureau to issue at least annually an updated list of
16 skills, techniques and medications approved for use at each
17 level of life support. [~~When setting requirements for
18 licensure of persons also subject to the Ambulance Standards
19 Act, the bureau shall consult with the state corporation
20 commission.]~~

21 B. In addition to the requirements specified in
22 Subsection A of this section, the department may:

- 23 (1) prohibit the use of "emergency medical
24 dispatcher", "emergency medical technician", "certified
25 emergency medical services first responder", "paramedic" or

underscored material = new
[bracketed material] = delete

1 similar terms connoting expertise in providing emergency
2 medical services by any person not licensed or certified under
3 the Emergency Medical Services Act;

4 (2) deny, suspend or revoke licensure or
5 certification in accordance with the provisions of the Uniform
6 Licensing Act; and

7 (3) establish a schedule of reasonable fees
8 for application, examination, licensure or certification and
9 regular renewal thereof."

10 Section 5. Section 27-5-4 NMSA 1978 (being Laws 1965,
11 Chapter 234, Section 4, as amended by Laws 2001, Chapter 30,
12 Section 1, Laws 2001, Chapter 272, Section 1 and also by Laws
13 2001, Chapter 280, Section 1) is amended to read:

14 "27-5-4. DEFINITIONS.--As used in the Indigent Hospital
15 and County Health Care Act:

16 A. "ambulance provider" or "ambulance service"
17 means a specialized carrier based within the state authorized
18 [~~under~~] pursuant to provisions and subject to limitations as
19 provided in individual carrier certificates issued by the
20 [~~public regulation commission~~] department of health to
21 transport persons alive, dead or dying en route by means of
22 ambulance service. The rates and charges established by public
23 regulation ~~commission~~ tariff shall govern as to allowable cost.
24 Also included are air ambulance services approved by the board.
25 The air ambulance service charges shall be filed and approved

1 pursuant to Subsection D of Section 27-5-6 NMSA 1978 and
 2 Section 27-5-11 NMSA 1978;

3 B. "board" means a county indigent hospital and
 4 county health care board;

5 C. "indigent patient" means a person to whom an
 6 ambulance service, a hospital or a health care provider has
 7 provided medical care, ambulance transportation or health care
 8 services and who can normally support himself and his
 9 dependents on present income and liquid assets available to him
 10 but, taking into consideration this income and those assets and
 11 his requirement for other necessities of life for himself and
 12 his dependents, is unable to pay the cost of the ambulance
 13 transportation or medical care administered or both. If
 14 provided by resolution of a board, it shall not include [any]
 15 person whose annual income together with his spouse's annual
 16 income totals an amount that is fifty percent greater than the
 17 per capita personal income for New Mexico as shown for the most
 18 recent year available in the survey of current business
 19 published by the United States department of commerce. [Every]
 20 A board that has a balance remaining in the fund at the end of
 21 a given fiscal year shall consider and may adopt at the first
 22 meeting of the succeeding fiscal year a resolution increasing
 23 the standard for indigency. The term "indigent patient"
 24 includes a minor who has received ambulance transportation or
 25 medical care or both and whose parent or the person having

. 146044. 1

1 custody of that minor would qualify as an indigent patient if
2 transported by ambulance or admitted to a hospital for care or
3 treated by a health care provider or all three;

4 D. "hospital" means a general or limited hospital
5 licensed by the department of health, whether nonprofit or
6 owned by a political subdivision, and may include by resolution
7 of a board the following health facilities if licensed or, in
8 the case of out-of-state hospitals, approved, by the department
9 of health:

10 (1) for-profit hospitals;

11 (2) state-owned hospitals; or

12 (3) licensed out-of-state hospitals where
13 treatment provided is necessary for the proper care of an
14 indigent patient when that care is not available in an in-state
15 hospital;

16 E. "cost" means all allowable ambulance
17 transportation costs, medical care costs or costs of providing
18 health care services, to the extent determined by resolution of
19 a board, for an indigent patient. Allowable costs shall be
20 determined in accordance with a uniform system of accounting
21 and cost analysis as determined by regulation of a board, which
22 includes cost of ancillary services but shall not include the
23 cost of servicing long-term indebtedness of a hospital, health
24 care provider or ambulance service;

25 F. "fund" means a county indigent hospital claims

1 fund;

2 G. "medicaid eligible" means a person who is
3 eligible for medical assistance from the department;

4 H. "county" means ~~any~~ a county, except a class A
5 county, with a county hospital operated and maintained pursuant
6 to a lease with a state educational institution named in
7 Article 12, Section 11 of the constitution of New Mexico;

8 I. "department" means the human services
9 department;

10 J. "sole community provider hospital" means:

11 (1) a hospital that is a sole community
12 provider hospital under the provisions of the federal medicare
13 guidelines established in 42 C.F.R. 412.92 pursuant to Title 18
14 of the federal Social Security Act; or

15 (2) an acute care general hospital licensed by
16 the department of health that is qualified, pursuant to rules
17 adopted by the state agency primarily responsible for the
18 medicaid program, to receive distributions from the sole
19 community provider fund;

20 K. "drug rehabilitation center" means an agency of
21 local government, a state agency, a private nonprofit entity or
22 combination thereof that operates drug abuse rehabilitation
23 programs that meet the standards and requirements set by the
24 department of health;

25 L. "alcohol rehabilitation center" means an agency

underscored material = new
[bracketed material] = delete

1 of local government, a state agency, a private nonprofit entity
2 or combination thereof that operates alcohol abuse
3 rehabilitation programs that meet the standards set by the
4 department of health;

5 M "mental health center" means a not-for-profit
6 center that provides outpatient mental health services that
7 meet the standards set by the department of health;

8 N. "health care provider" means:

9 (1) a nursing home;
10 (2) an in-state home health agency;
11 (3) an in-state licensed hospice;
12 (4) a community-based health program operated
13 by a political subdivision of the state or other nonprofit
14 health organization that provides prenatal care delivered by
15 New Mexico licensed, certified or registered health care
16 practitioners;

17 (5) a community-based health program operated
18 by a political subdivision of the state or other nonprofit
19 health care organization that provides primary care delivered
20 by New Mexico licensed, certified or registered health care
21 practitioners;

22 (6) a drug rehabilitation center;

23 (7) an alcohol rehabilitation center;

24 (8) a mental health center; or

25 (9) a licensed medical doctor, osteopathic

1 physician, dentist, optometrist or expanded practice nurse when
2 providing services in a hospital or outpatient setting that are
3 necessary for conditions that endanger the life of or threaten
4 permanent disability to an indigent patient;

5 0. "health care services" means all treatment and
6 services designed to promote improved health in the county
7 indigent population, including primary care, prenatal care,
8 dental care, provision of prescription drugs, preventive care
9 or health outreach services, to the extent determined by
10 resolution of the board;

11 P. "planning" means the development of a countywide
12 or multicounty health plan to improve and fund health services
13 in the county based on the county's needs assessment and
14 inventory of existing services and resources and that
15 demonstrates coordination between the county and state and
16 local health planning efforts; and

17 Q. "commission" means the New Mexico health policy
18 commission. "

19 Section 6. Section 65-6-2 NMSA 1978 (being Laws 1974,
20 Chapter 82, Section 2, as amended) is amended to read:

21 "65-6-2. DEFINITIONS.--As used in the Ambulance Standards
22 Act:

23 A. "ambulance" means a vehicle, including motor
24 vehicles or watercraft, designed and used or intended to be
25 used for the transportation of sick or injured persons;

. 146044. 1

1 B. "driver" means a person who, on a regular or
2 irregular basis, either paid or voluntary, serves as the
3 operator of an ambulance;

4 C. "attendant" means a person who, on a regular or
5 irregular basis, either paid or voluntary, serves as an
6 assistant to the driver in the operation of [~~the~~] an ambulance;
7 and

8 ~~[D. "commission" means the public regulation~~
9 ~~commission]~~

10 D. "department" means the department of health. "

11 Section 7. Section 65-6-4 NMSA 1978 (being Laws 1974,
12 Chapter 82, Section 4) is amended to read:

13 "65-6-4. [~~CORPORATION COMMISSION]~~ DEPARTMENT-- DUTIES. --

14 A. The [~~corporation commission in accordance with~~
15 ~~its responsibilities to regulate common carriers, shall, within~~
16 ~~one year of the effective date of this Act, hold public~~
17 ~~hearings as prescribed in Article 27 of Chapter 64 NMSA 1953~~
18 ~~and]~~ department shall adopt regulations:

19 ~~[A.]~~ (1) for the establishment of reasonable,
20 flexible standards for ambulances, including but not limited
21 to:

22 ~~[(1)]~~ (a) vehicle design;

23 ~~[(2)]~~ (b) health and safety equipment to
24 be maintained and used in ambulances;

25 ~~[(3)]~~ (c) procedures for the operation

1 of ambulances; and

2 [~~(4)~~] (d) at least annual inspection of
3 [~~ambulances~~] ambulances; and

4 [~~B.~~] (2) for the licensure of all [~~ambulance~~]
5 drivers and attendants, to include:

6 [~~(1) — minimum~~] (a) minimum training
7 requirements to include basic and advanced red cross and such
8 other available training as the [~~commission~~] department finds
9 reasonable and in the best interests of the public; and

10 [~~(2)~~] (b) a written and practical
11 examination of competence limited to that material, information
12 and training required of [~~ambulance~~] drivers and attendants,
13 respectively, in the regulations adopted by the [~~corporation~~
14 commission] department.

15 B. In establishing standards for ambulances, the
16 [~~commission~~] department shall give serious consideration to the
17 vehicle needs and limitations imposed by the topography and
18 road and weather conditions of various localities. Further,
19 the [~~commission~~] department shall take into consideration the
20 resources of the various communities, institutions and
21 sponsoring organizations providing ambulance service to the
22 public."

23 Section 8. Section 65-6-5 NMSA 1978 (being Laws 1974,
24 Chapter 82, Section 5) is amended to read:

25 "65-6-5. APPLICABILITY OF ACT. -- Upon the effective date

underscored material = new
[bracketed material] = delete

1 of the Ambulance Standards Act, all ambulances operating in New
2 Mexico, except those excluded in Section [6] 65-6-6 NMSA 1978,
3 shall be issued a three-year certificate of public convenience
4 and necessity by the [~~state corporation commission~~]
5 department. "

6 Section 9. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2003.

underscored material = new
[bracketed material] = delete